

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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HEATHER CONINE,

Plaintiff,

-v-

6:15-CV-359

PORTFOLIO RECOVERY  
ASSOCIATES, LLC.,

Defendant.  
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DAVID N. HURD  
United States District Judge

**ORDER DISMISSING CASE FOR FAILURE TO PROSECUTE**

On March 26, 2015, plaintiff Heather Conine (“plaintiff”), through counsel, filed this civil action against defendant Portfolio Recovery Associates, LLC (“defendant”) alleging violations of the Fair Debt Collection Practices Act and the Telephone Consumer Protection Act (“TCPA”). Dkt. No. 1.

Shortly after defendant answered the pleading, Dkt. No. 6, plaintiff’s suit, along with more than sixty-six other, related TCPA actions filed in various judicial districts, were swept up by the U.S. Judicial Panel on Multi-District Litigation and transferred to the U.S. District Court for the Southern District

of California for coordinated or consolidated pre-trial proceedings pursuant to 28 U.S.C. § 1407, Dkt. Nos. 8, 9.

On December 8, 2023, following the completion of the pre-trial proceedings out in California, plaintiff's lawsuit was returned to this judicial district for the purposes of trial. Dkt. No. 10. Thereafter, Chief U.S. Magistrate Judge Thérèse Dancks directed plaintiff to file a status report indicating, *inter alia*, whether she intends to pursue her claims further in this forum. Dkt. No. 12.

On February 8, 2024, plaintiff's counsel filed a status report in which he indicated that he had repeatedly attempted to contact plaintiff but had thus far been unable to do so. Dkt. No. 14. Plaintiff's counsel requested forty-five days in which to attempt to re-establish contact with his client. *Id.* That request was granted, Dkt. No. 15, and when plaintiff's counsel failed to fail a status report at the close of that forty-five-day deadline, Judge Dancks even *sua sponte* extended the deadline out to April 5, 2024, Dkt. No. 16.

On that date, plaintiff's counsel finally filed a status report in which he detailed a series of eight concrete efforts he had undertaken in an attempt to locate and/or re-establish contact with his client. Dkt. No. 17. According to counsel, his efforts had proved fruitless. *Id.* Under the circumstances, then, plaintiff's counsel "conclude[d] that Plaintiff has abandoned her claim." *Id.*

On April 9, 2024, in light of the foregoing, this Court issued an Order to Show Cause why this action should not be dismissed for failure to prosecute

in accordance with Federal Rule of Civil Procedure 41(b) and Local Rules of Practice 41.2(a) and (b). Dkt. No. 18. This Show-Cause Order gave plaintiff until April 30, 2024 in which to respond to the Court and “demonstrate an interest in pursuing this action.” *Id.*

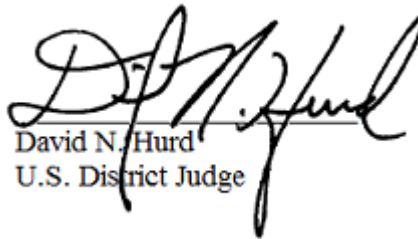
The April 30, 2024 deadline set out in the Show-Cause Order has expired without any further communication from plaintiff. Thus, upon review of the docket, and in light of the foregoing, it is

ORDERED that

1. This action is DISMISSED without prejudice for failure to prosecute.

The Clerk is directed to enter a judgment accordingly and close the file.

IT IS SO ORDERED.



David N. Hurd  
U.S. District Judge

Dated: May 7, 2024  
Utica, New York.